

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: OMAHA DIST DRO

FILE NUMBER: 200480535

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED:

In the office

Date:

At the project site

Date:

Oct 19, 2004

PROJECT LOCATION INFORMATION:

State: Colorado

County: Jefferson

Center coordinates of site by latitude & longitudinal coordinates: 39 43 27.5892, 105 07 17.4707

Approximate size of site/property (including uplands & in acres): 650

Name of waterway or watershed: McIntyre Gulch

SITE CONDITIONS: city suburban rural dry upland surrounds the aquatic sites

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)				x					
Detention/retention ponds w/wetlands									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?					x
Is used to irrigate crops sold in interstate commerce?					

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Approved x Preliminary

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):

The detention ponds and associated fringe wetlands on this site are constructed in dry upland and are not tributary to waters of the US. While the detention pond and associated wetlands in Area 10N may be adjacent to the Ag Ditch, the Ag Ditch is not a waters of the US. The Ag Ditch is constructed entirely in dry uplands and does not intercept nor is tributary to waters of the US. Since the ditch does not intercept 100% of the flow of a natural tributary, it has not replaced a natural tributary and is simply functioning as a irrigation ditch.